

EXHIBIT EE

In the Matter Of:

FREEMAN v

DEEBS-ELKENANEY

CAROLE CHASKI, PH.D.

September 28, 2023



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
LYNNE FREEMAN, an individual,
Plaintiff,
Civil Action No.
VS. 1:22-cv-02435-LLS-SN
TRACY DEEBS-ELKENANEY P/K/A
TRACY WOLFF, an individual,
EMILY SYLVAN KIM, an individual,
PROSPECT AGENCY, LLC, a New
Jersey Limited Liability Company,
ENTANGLED PUBLISHING, LLC, a
Delaware Limited Liability
Company, HOLTZBRINCK PUBLISHERS,
LLC D/B/A MACMILLAN, a New York
Limited Liability Company, and
UNIVERSAL STUDIOS, LLC, a
Delaware Limited Liability Company,
Defendants.
-----X

REMOTE VIDEOTAPED DEPOSITION
OF
CAROLE E. CHASKI, Ph.D.
Thursday, September 28, 2023

Reported by:
AYLETTE GONZALEZ, RPR, CLR, CCR
JOB NO. 2023-911535

DATE: September 28, 2023

TIME: 12:00 p.m.

Remote videotaped deposition of
CAROLE E. CHASKI, Ph.D., pursuant to
NOTICE, before AYLETTE GONZALEZ, a
Registered Professional Reporter, Certified
LiveNote Reporter, Certified Court Reporter
and Notary Public of the States of New
York, New Jersey, Pennsylvania, Delaware
and Texas.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

R E M O T E A P P E A R A N C E S :

DONIGER / BURROUGHS LAW FIRM

Counsel for Plaintiff

LYNNE FREEMAN

603 Rose Avenue

Venice, California 90291

BY: STEPHEN M. DONIGER, ESQ.

EMAIL: stephen@donigerlawfirm.com

COWAN, DeBAETS, ABRAHAMS & SHEPPARD LLP

Counsel for Defendants

TRACY DEEBS-ELKENANEY P/K/A TRACY WOLFF,

ENTANGLED PUBLISHING, LLC, HOLTZBRINCK

PUBLISHERS, LLC d/b/a MACMILLAN and

UNIVERSAL CITY STUDIOS LLC

41 Madison Avenue

New York, New York 10010

BY: BENJAMIN HALPERIN, ESQ.

EMAIL: bhalperin@cdas.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

R E M O T E A P P E A R A N C E S :

ALSO PRESENT:

JACOB FIGUEROA, Videographer

TRENT BAER

EMILY KIM

MARK PASSIN

1 DR. CHASKI (9/28/2023)

2 THE VIDEOGRAPHER: We are on
3 the record on September 28, 2023, at
4 approximately 12:00 p.m. Eastern
5 Time, for the remote video deposition
6 of Carole Chaski, in the matter of
7 Freeman versus Deeb's-Elkenaney,
8 et al.

9 My name is Jacob Figueroa. I'm
10 the videographer on behalf of
11 Lexitas.

12 Will counsel please introduce
13 themselves for the record, who they
14 represent, beginning with the party
15 noticing this proceeding.

16 MR. HALPERIN: I'm Benjamin
17 Halperin of the law firm Conway
18 DeBaets Abrahams & Sheppard, here on
19 behalf of the defendants, Tracy
20 Deeb's-Elkenaney, Entangled
21 Publishing, MacMillan, and Universal
22 City Studios.

23 MR. DONIGER: Stephen Doniger
24 of Doniger Burroughs, on behalf of
25 the plaintiff, Lynne Freeman.

1 DR. CHASKI (9/28/2023)

2 the works were created independently; do
3 you understand that?

4 A. Yes.

5 Q. And my understanding is that is
6 an issue that you are offering an opinion
7 on, probative similarities?

8 A. Yes.

9 Q. As I just defined it?

10 A. Yes. I am offering statistical
11 expectation with regard to similarities.

12 Q. There's a separate concept in
13 copyright law called "substantial
14 similarity"; are you familiar with that?

15 A. No.

16 Q. One definition of substantial
17 similarity is that it addresses whether an
18 average observer would find that the
19 allegedly infringing work is substantially
20 similar to the plaintiff's work; does that
21 make sense?

22 A. Yes.

23 Q. My question is, is substantial
24 similarity an issue that you are offering
25 an opinion on?

1 DR. CHASKI (9/28/2023)

2 MR. DONIGER: I'm going to
3 object as calling for speculation,
4 lacking foundation, potentially
5 calling for the mental impressions
6 and opinions of counsel. As I noted
7 yesterday, her testimony is what it
8 is. The facts that she found are
9 what they are, how we use those and
10 what we argue out of them is
11 attorney, you know, mental
12 impressions and opinions.

13 If the witness knows how her
14 testimony will be used based on
15 conversations with counsel about
16 their mental impressions and
17 opinions, I'm going to instruct her
18 not to answer. If she has some other
19 basis to answer, she can go ahead.

20 A. I don't think my report
21 addresses substantial similarity in terms
22 of the -- of -- as I understand it now,
23 Mr. Halperin, in terms of estimating how an
24 average reader would read these books.

25 Q. Do you consider yourself to be

1 DR. CHASKI (9/28/2023)

2
3 J U R A T

4
5
6 I, CAROLE E. CHASKI, Ph.D., do
7 hereby certify under penalty of
8 perjury that I have read the
9 foregoing transcript of my deposition
10 taken on September 28, 2023; that I
11 have made such corrections as appear
12 noted herein in ink, initialed by me;
13 that my testimony as contained
14 herein, as corrected, is true and
15 correct.

16
17
18 _____
CAROLE E. CHASKI, Ph.D.

19
20 Subscribed and sworn to before me

21 This _____ day of _____, 2023.

22
23 _____
NOTARY PUBLIC

DR. CHASKI (9/28/2023)

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF RICHMOND)

I, AYLETTE GONZALEZ, a Notary
Public for and within the State of New
York, do hereby certify:

That the witness, CAROLE E.
CHASKI, Ph.D., whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 7th day of
October, 2023.



AYLETTE GONZALEZ